

Agenda Item: 16-52 **Request Approval to Proceed to Public Comment with the “Initial Determinations” for the Dam Safety Rules (15A NCAC 02K) as Required in HB 74 and GS 150B.**

Explanation:

The Division of Energy Mineral and Land Resources (DEMLR) requests the EMC's approval to proceed to public comment with the “initial determinations” for the Dam Safety Rules as required in HB 74 and GS 150B. The first requirement in the HB 74 Rules Review process is for staff to present to the Commission their “initial determination” for the categorization of each rule as either: 1) necessary with substantive interest; 2) necessary without substantive interest; or 3) unnecessary. The staff recommends that two rules be categorized as “unnecessary” but the remainder of the rules be categorized as “necessary without substantive public interest.” Although this recommendation differs from most of the previous recommendations to the Commission, we believe that this is the proper categorization for these rules. Basically, the Dam Safety rules have been in existence for over 30 years and they have been subject to almost no controversy. Our experience has been that most of the public, even the regulated public, sees the necessity of having a strong Dam Safety program. In addition, these rules are based on a very solid, NC Dam Safety Law that is consistent with nationally-recognized engineering and public safety standards.

At their September meeting, the Water Quality Committee voted to accept the staff recommendation on the categorization of the 33 rules and to send that recommendation to the EMC at their November meeting.

Recommendation:

That the Environmental Management Commission grant approval to proceed to public comment with the “initial determinations” for the Dam Safety Rules (15A NCAC 02K) as required in HB 74 and GS 150B.